

NORTH CAROLINA GENERAL ASSEMBLY



HOUSE SELECT COMMITTEE ON THE STATE'S ROLE IN IMMIGRATION POLICY

REPORT TO THE HOUSE OF REPRESENTATIVES of the 2013 SESSION of the GENERAL ASSEMBLY OF NORTH CAROLINA

DECEMBER 6, 2012

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TRANSMITTAL LETTER

December 6, 2012

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES

The House Select Committee on the State's Role in Immigration Policy respectfully submits the following report to the House of Representatives of the 2013 Session of the General Assembly of North Carolina.

Rep. Frank Iler (Co-Chair)

Rep. Harry Warren (Co-Chair)

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COMMITTEE PROCEEDINGS

The House Select Committee on the State's Role in Immigration Policy met five times after the 2011 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

December 7, 2011

Drupti Chauhan, Committee Staff, reviewed the Committee charge, major North Carolina legislation enacted between 2006 and 2011, and pending and introduced bills from the 2011 legislative session.

Sheriff Terry Johnson, Alamance County, provided an overview of the 287(g) Program and its implementation in North Carolina. Currently, there are six counties (Wake, Cabarrus, Buncombe, Mecklenburg, Henderson, and Alamance) participating in the 287(g) Program. According to Sheriff Johnson, this program, instituted in 1996 due to the lack of manpower for immigration enforcement, helps reveal the true identity of the individuals being held in jails. Sheriff Johnson said that approximately 80% of the people who are arrested and are here illegally give a false name upon arrest. Once in the system and fingerprinted, the 287(g) Program allows law enforcement to identify and investigate how many encounters the arrestee has had with customs and law enforcement.

Sheriff Sam Page, Rockingham County, spoke next about the Secure Communities Program and its implementation in North Carolina. In 2009, the North Carolina Sheriff's Association became involved with the immigration project and four counties were included in the Secure Communities Program. Later, Rockingham County was added and by March 2011, all the counties in North Carolina were participating. This Program is a partnership with Immigration to better identify individuals who are arrested and brought into the jails, and when they are determined to be illegal, that data is given to Immigration.

January 25, 2012

Alan Woodard, Director of Examinations, North Carolina Department of Revenue, spoke about the areas of noncompliance that have been encountered by the Department of Revenue as well as the initiatives that have been implemented to address the problems. Mr. Woodard stated that the Individual Taxpayer Identification Number (ITIN) is issued to any individual who is not eligible to obtain a Social Security Number (SSN). Many times an employee will fill out paperwork that includes a false SSN and this information is then used by the employer when issuing the W-2 form. The employee will use the ITIN when filing taxes and that does not match the SSN reported to the IRS.

Michelle Mobley, Immigration Verification Supervisor, Driver Services Section of the North Carolina Department of Motor Vehicles, spoke to the Committee about identification requirements and verification of lawful status in the Division of Motor Vehicles. She talked about: 1) the documents that are required as proof of identification to receive a driver license/identification card, 2) providing proof of social security number and verification of lawful status when making application for a driver license/identification card, and 3) acceptable documents for providing proof of North Carolina residence when applying for an original driver license/identification card.

The next six presenters spoke to the Committee about the eligibility of aliens to receive benefits administered by the Department of Health and Human Services.

Dean Simpson, Chief, North Carolina Division of Social Services, Economic and Family Services, talked about the different programs that are administered or overseen by the Division of Social Services that undocumented immigrants are eligible for and under what circumstances they are eligible. Ms. Simpson spoke about services offered (Food and Nutrient Services, Work First, and Energy Assistance), the number served through these programs, and the cost for service.

Kevin Kelly, Section Chief, Child Welfare Services, Division of Social Services, spoke next about the primary services offered under child welfare services. Child Welfare Services fall within the scope of the US DHHS Administration for Children and Families. The provision of these services is spelled out in the Social Act as well as the Child Abuse Prevention and Treatment Act. The Personal Responsibility and Work Opportunities Act provide an exception to the ineligibility provisions.

Dennis Streets, Director, North Carolina Division of Aging and Adult Services, discussed programs and services that undocumented immigrants are and are not eligible for under the Division of Aging and Adult Services. Undocumented immigrants are not eligible for the Special Assistance Program, the Key Program, and the Senior Community Service Employment. Undocumented immigrants are eligible, but in a limited manner, for the Adult Protective Services and Guardianship. Undocumented immigrants are eligible for Home and Community Services under the Older Americans Act, Operation Fan Heat Relief, and Emergency Shelter/Solutions Grant.

Ms. McClanahan was introduced next to speak on behalf of Sheila Platts, Assistant Director for Recipient and Provider Services, NC Division of Medical Assistance, who was unable to attend. Ms. McClanahan talked about the definition and the federal regulations of Medicaid. Next, she spoke about the eligibility requirements of Medicaid in North Carolina. To be eligible for full Medicaid or Health Choice, you must be a US citizen or admitted under a specific immigration status and must meet the categorical and financial eligibility requirements. Undocumented aliens are eligible for emergency medical services only and must meet categorical and financial eligibility requirements for the program/category.

Deb Cassidy, Director, Division of Child Development Early Education, spoke next about the citizenship requirements and verification for the Child Care Subsidy Program. She also provided some information regarding the NC Pre-K Program eligibility as it relates to citizenship status.

Kevin Ryan, Section Chief, Women's and Children's Health, Division of Public Health, discussed the eligibility of aliens to receive services in public health programs. Nonqualified aliens are ineligible to receive federal public benefits. This term is defined by federal law to include some health benefits; however, federal law specifically exempts some health benefits from the definition. Dr. Ryan stated that nonqualified aliens receive services when allowed by law when circumstances require testing or care for communicable diseases as the appropriate public health response to prevent the spread of the disease. Prenatal care, maternal and child health care services, and immunization services are provided when allowed by law. Dr. Ryan mentioned several other services that are provided regardless of immigration status.

Kara McCraw, Committee Staff, gave an overview of the omnibus immigration bills enacted in other states in 2011 and of the status of legal challenges against them. According to the National Council of State Legislatures, in 2011 there were approximately 1600 bills and resolutions relating to immigration introduced in the 50 states. As of December, almost 200 new laws had been enacted. Ms. McCraw provided information that focused on six states. Five of those states (Alabama, Georgia, Indiana, South Carolina, and Utah) enacted omnibus legislation that addressed immigration in various numbers of ways. The sixth state, Arizona, was included because the litigation from their 2010 legislation has proceeded the furthest of any state that is facing challenges with omnibus legislation. All of the six states have had lawsuits brought by private plaintiffs challenging all or part of the omnibus act. Four of the six states (Arizona, Alabama, South Carolina, and Utah) have also had challenges to part of the law filed by the federal government.

February 29, 2012

The following four presenters from the business community spoke to the Committee about their recommendations relating to the State's role in immigration policy:

Lisa Martin, Director of Government Affairs, North Carolina Home Builders Association, spoke about the important role the immigrant community has played in the construction industry. While there has been a significant presence of immigrants in the home building industry, the influx of illegal immigrants in the United States is a concern for all business owners. She stated that the NC Home Builders Association does not support illegal immigration. She expressed concerns regarding the E-Verify System. She also stated that the Association declines to take a position on any measure other than the support and willing compliance with the requirements in House Bill 36.

Claudia Dodgen, Vice-President, Employee Services, Crowder Construction Company, and Member, Human Resource Committee, began her presentation by applauding the legislature for enacting House Bill 36. For years the construction company has struggled with the challenges of complying with the Immigration Reform and Control Act, which requires hiring managers to be document experts at the point of hire. With E-Verify, the guesswork on whether someone is legally eligible to work is removed and hiring managers can focus on filling positions with the most qualified candidates. Ms. Dodgen shared 3 requests of the legislature on behalf of the construction industry: 1) help with education on House Bill 36, 2) minimize or avoid any legislation that continues a federal trend of increasing the administrative burden on the construction industry, and 3) help think through and close the gap on the increased technology needs for smaller contractors.

Lee Wicker, Deputy Director, North Carolina Growers Association, stated that agribusiness is the number one industry in North Carolina, generating over 70 billion dollars in annual revenues and employing over 20 percent of the workforce in NC. The North Carolina Growers Association is the largest user of the federal H-2A program in the nation and will likely employ over 7,000 legal foreign workers in NC this year. H-2A is a temporary non-immigrant agriculture guest worker program administered at the federal level by the US Departments of Labor and Homeland Security and at the State level by the Departments of Labor and Commerce. Mr. Wicker stated that it is clear there is bipartisan political agreement that the current program is broken and in need of reform and he feels that a resolution by the North Carolina General Assembly encouraging Congress to reform the H-2A program would show strong support for the NC farmers who are going to great expense to insure they have a legal workforce. Mr. Wicker also recommended that the North Carolina General Assembly follow Georgia's lead in appropriating funds to the Department of Agriculture to hire an employee whose exclusive role is to develop easy to understand educational materials for farmers to facilitate compliance with respect to labor, employment, worker protection, and immigration laws.

Tamar Jacoby, President, ImmigrationWorks USA, provided some perspective on how other states are handling immigration and what the consequences have been for businesses in those states. Ms. Jacoby said the problem for most businesses that hire immigrant workers is that there aren't enough legal foreign workers available to fill jobs for which employers are unable to recruit US workers. She stated that with Congress being deadlocked and unable to act on immigration, state lawmakers across the country are taking matters into their own hands. She mentioned several states that have used "attrition through enforcement" practices and now their economies are reeling as a result. As far as North Carolina is concerned, Ms. Jacoby believes that House Bill 36, mandating E-Verify for employers and local government, is a good balance and considers E-Verify the best tool for North Carolina in monitoring immigration compliance. She suggests that North Carolina stay the course with House Bill 36 because it is a balanced, careful, pragmatic approach that combines immigration enforcement with a realistic concern for the health of the North Carolina economy.

March 28, 2012

Maudia Melendez, Executive Director, Jesus Ministries, spoke to the Committee about her life as an immigrant and her work in the immigrant community since moving to America 39 years ago. She has been in North Carolina for 25 years and has heard many negative comments about immigrants. She wanted to share with the Committee that immigrants are people of faith and they contribute to the economy.

James Johnson, President, North Carolinians For Immigration Reform and Enforcement (NC FIRE), addressed the Committee about illegal immigration in North Carolina. He said that last year, 32 states passed strong immigration enforcement laws to protect their citizens from the undue burdens associated with illegal aliens. Some of these states, such as Virginia, West Virginia, Tennessee, South Carolina, Georgia, and Alabama, passed up to 15 different laws regarding illegal immigration. He said that with the two laws passed last year, North Carolina has little more than nothing to deter illegal aliens from coming to this State. With the influx and the associated cost of illegal aliens that are currently self-deporting from these other states, Mr. Johnson is asking the Committee to relieve North Carolina of these undue burdens by writing or recommending strong immigration enforcement legislation.

Next, a public hearing was held and approximately 35 individuals spoke. Those comments are reflected in the minutes.

December 6, 2012

The Committee adopted the final report.

FINDINGS AND RECOMMENDATIONS

The House Select Committee on the State's Role in Immigration Policy held five meetings from December 2011 to December 2012. Numerous stakeholders were invited to speak, including members of the public, business and industry groups, and a wide array of advocacy organizations. The Committee engaged with stakeholders in meaningful dialogue on a variety of different issues related to immigration and recommends continuation of that dialogue during the 2013 Session of the General Assembly.

Although there is some indication of renewed interest at the federal level for immigration reform, federal inaction on this topic has placed undue burdens on the states to manage both legal and illegal immigration. Many states, including North Carolina, have been compelled to pass state laws to implement immigration reform measures that address economic, health, and safety issues that affect their residents because the federal government has refused to take measures to reform federal immigration laws or to enforce existing immigration laws. The United States Supreme Court has validated some of these state laws in recent Court opinions.

The Committee also finds that North Carolina has derived strength and prosperity from legal immigration and that legal immigrants continue to make vital contributions to the State. Therefore, the Committee further finds that there is strong need for State-level legislation that acknowledges the impact of immigration upon the agriculture, construction, hospitality, information technology, and science-based industries in North Carolina, each of which relies on an economical and dependable labor force with varying skill sets. Any such legislation must be able to be administered effectively, have reasonable financial costs, be enforceable, and be tailored specifically to meet the State's economic and employment needs. Because of the complexity of the relationship between these goals, the Committee finds that it will be necessary to include the input of all stakeholders as the 2013 General Assembly moves deliberately towards crafting State-level legislation in this area.

The Committee recommends that the 2013 General Assembly continue to review and revise previously introduced, but not enacted, immigration legislation and solicit input from a wide array of interested stakeholders.

The Committee further recommends that the 2013 General Assembly pass resolutions immediately upon convening that provide for the following: (i) encouraging the North Carolina Congressional delegation to take leadership roles in introducing legislation to revise federal immigration laws; (ii) urging the federal government to enforce security along all of the borders of the United States; (iii) advocating for wider authority to be delegated to the states so that the states may work more closely with the federal government in the enforcement of federal immigration laws; and (iv) advocating for

wider authority to be delegated to the states to better serve the employment and labor needs of the individual states.

The Committee further recommends increased discussion among entities with economic interest in the issues, such as leaders in the fields of agriculture and agribusiness, construction, hospitality, information technology, and science. Finally, the Committee recommends a renewed focus on economic development potential and opportunities to increase North Carolina's regional competitiveness through pragmatic approaches to immigration in this State.

COMMITTEE MEMBERSHIP

2011-2012

Speaker of the House of Representatives Appointments:

Rep. Frank Iler (Co-Chair)
Rep. Harry Warren (Co-Chair)

Rep. William D. Brisson
Rep. George G. Cleveland
Rep. John Faircloth
Rep. Dale R. Folwell
Rep. Bert Jones
Rep. Garland E. Pierce
Rep. Susi Hamilton
Rep. Edgar V. Starnes
Rep. Sarah Stevens
Rep. Michael H. Wray

COMMITTEE CHARGE/STATUTORY AUTHORITY



Office of Speaker Thom Tillis
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON THE STATE'S ROLE
IN IMMIGRATION POLICY.

*Revised December 2, 2011

TO THE HONORABLE MEMBERS OF THE
NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. The House Select Committee on the State's Role in Immigration Policy (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26 of the Rules of the House of Representatives of the 2011 General Assembly.

Section 2. The Committee consists of the 9 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Rep. Frank Iler, Chair
Rep. Harry Warren, Chair
Rep. Dale Folwell
Rep. John Faircloth
Rep. Sarah Stevens
Rep. Edgar Starnes
Rep. William Brisson
Rep. Michael Wray
Rep. Garland Pierce
Rep. George Cleveland
Rep. Bert Jones
Rep. Ray Rapp

Section 3. The Committee may examine the State's role in immigration policy, including the effectiveness of laws already in effect pertaining to immigration as well as best practices in other states.

HOUSE SELECT COMMITTEE ON THE STATE'S ROLE IN IMMIGRATION POLICY

Section 4. The Committee shall meet upon the call of its Co-Chairs. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2012, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives prior to the convening of the 2013 General Assembly by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library on or before December 31, 2012. The Committee terminates upon the filing of its final report.

Effective this the 23rd day of September, 2011.



Thom Tillis
Speaker

*Revised on December 2, 2011 to add Representative Cleveland, Representative Jones and Representative Rapp.